

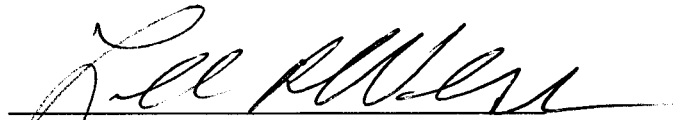


Because Collins has sought as a remedy vacatur of his state court conviction, relief under section 1983 is unavailable. Thus, dismissal of all claims against the remaining defendants, William C. Riley and Darrell Dawkins, is likewise warranted.

Based upon the foregoing, the Court

- (1) ADOPTS the Report and Recommendation issued on January 31, 2006;
- (2) for the reasons stated by Magistrate Judge Bacharach, DECLINES to recharacterize this action as an action seeking relief under title 28 U.S.C. § 2254;
- (3) GRANTS the Motion to Dismiss filed on October 24, 2005, by the State of Oklahoma and Riley;
- (4) deems MOOT the Motion to Dismiss filed on February 21, 2006, by Dawkins and the City of Lawton, to the extent, this movant is a party defendant; and
- (5) DISMISSES without prejudice all claims asserted in Collins' complaint against all defendants.

ENTERED this 24<sup>th</sup> day of February, 2006.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE